

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES VILLA,

Defendant.

8:12-CR-331

ORDER

This matter is before the Court on the defendant's motion to appoint counsel ([filing 98](#)). The defendant's motion will be denied.

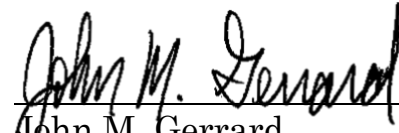
The defendant's motion asks for counsel to be appointed to pursue relief under [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#), which permits a defendant (after exhausting administrative remedies) to move for reduction of a term of imprisonment based upon "extraordinary and compelling reasons." But the defendant does not explain any basis for a sentence reduction, nor does it indicate that the defendant has pursued his administrative remedies by presenting a request for compassionate release to the warden of his institution. *See id.*

There is no constitutional right to appointed counsel in sentence modification proceedings. [United States v. Harris, 568 F.3d 666, 669 \(8th Cir. 2009\)](#). Nor does the defendant have a right to appointed counsel under the Criminal Justice Act, [18 U.S.C. § 3006A](#). [Harris, 568 F.3d at 669](#). Whether to appoint counsel is, therefore, committed to the discretion of the Court. *See id.* The Court declines to appoint counsel in this case, at this point, because the defendant has not identified any basis for a sentence reduction. But that denial will be without prejudice to reasserting a request for counsel supported by allegations that establish some colorable claim for relief.

IT IS ORDERED that the defendant's motion to appoint counsel  
([filing 98](#)) is denied without prejudice.

Dated this 26th day of October, 2020.

BY THE COURT:



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John M. Gerrard  
Chief United States District Judge